

REMARKS

Claims 1-16 are pending in this application after this amendment. Claims 1, 3, and 14 are independent. New claims 15-16 have been added for consideration by the Examiner. No new matter has been added by the addition of these claims. In light of the remarks included herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicants have amended the claims to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claim 14 under 35 U.S.C. §112, second paragraph; rejected claim 14 under 35 U.S.C. §102(b) as being anticipated by Trotta, Jr. (USP 5,595,264) (hereinafter "Trotta"); and rejected claims 1-13 under 35 U.S.C. §103(a) as being unpatentable over Trotta in view of Garver (USP 7,114,656). Applicants respectfully traverse these rejections.

Claim Rejection - 35 U.S.C. §112

The Examiner rejected claim 8 asserting the term "outside" is unclear. By this amendment, Applicants have amended claim 8 to recite "...wherein the portable terminal relays commodity information to ~~an outside~~ at least one of a POS apparatus and an information processing apparatus at the same time that the portable terminal reads out the commodity information from the wireless tag." Based upon this amendment, Applicants respectfully request the outstanding rejection be withdrawn.

Claim Rejection - 35 U.S.C. §102

The Examiner rejected claim 14 asserting Trotta discloses all of the claims elements.

Claim 14, as amended, recites a portable terminal comprising a tag reader for reading via radio waves commodity information written onto a wireless tag located on a sample commodity remote from a checkout area **and customer identifying information written onto another wireless tag**; a storage for accumulating and storing commodity information that has been read by the tag reader; a wireless communication device for transmitting commodity information to an information-processing apparatus via radio waves at the same time that the commodity information is stored in the storage, **and transmitting the customer identifying information to the information-processing apparatus via radio waves**; and a display for displaying the commodity information that has been read out.

In contrast, the disclosure of Trotta is directed to a system and method for automated shopping. At col. 6, lines 20-32, Trotta discloses as follows:

In a further preferred embodiment of the invention, the payment card 10 is used for identification of the customer during his shopping and the total purchase price of the items is deducted from the customer's account at completion of the shopping. As the selected items are scanned, the in-store computer 20 merely records the purchase to the customer's account and the receipt. Then, once the customer has finished shopping and returned the scanner 14 to its holder 16, the display panel 22 will ask the customer to confirm the final purchase total by pressing the green button 24. Once actuated, the computer 20 debits the total purchase to the customer's payment card 10, and a receipt is issued to the customer.

As can be seen from the above disclosure, Trotta discloses that a payment card 10 is used for identification of a customer, the payment card 10 being inserted into a slot 12 of a scanner terminal 18. In the disclosure of Trotta, customer identifying information of the payment card 10 is neither read using a portable scanner 14 via radio waves, nor transmitted to an information processing apparatus via radio waves.

As Trotta fails to teach or suggest all of the claim elements, Applicants respectfully submit that claim 14 is not anticipated by Trotta. It is respectfully requested that the outstanding rejection be withdrawn.

Applicants further note that Garver fails to teach or suggest the invention as recited in claim 14.

Claim Rejections - 35 U.S.C. §103

Claims 1-13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Trotta in view of Garver.

Claim 1 recites a method that introduces a POS apparatus, and specifically recites, “comparing at the information-processing apparatus the commodity information which has already been relayed to the information-processing apparatus, with commodity information which is sent from the portable terminal to a POS apparatus at a sales counter and is then entered into the information-processing apparatus.” The Examiner relies on col. 4, lines 30-40 to teach this claim element.

Trotta discloses at col. 4, lines 30-40 as follows:

Portable scanner 14 includes an optical scanner 23 which transmits the encoded bar code indicia information to a microprocessor 25, as diagrammatically shown in FIG. 4. Keypad buttons 24, 26, 28 also communicate the customer's selection to the microprocessor 25. Microprocessor 25 then transmits this received information to the in-store computer 20 by way of a transceiver 40 and transaction encoder/decoder 42. Computer 20 processes this information and returns the appropriate signal to microprocessor 25 such that the customer is correctly informed of their shopping purchase.

In addition, Trotta discloses the in-store computer relating the item selected for purchase to an inventory retrieval system (col. 5, lines 35-38). However, Trotta fails to teach or suggest communication of commodity information that is scanned by the user to in-store computer 20. As such, Trotta fails to teach or suggest “comparing at the information-processing apparatus the commodity information which has already been relayed to the information-processing apparatus, with commodity information **which is sent from the portable terminal to a POS apparatus at**

a sales counter and is then entered into the information-processing apparatus,” as suggested by the Examiner.

Applicants respectfully submit that Garver fails to cure the deficiencies of the teachings of Trotta.

As neither Trotta nor Garver teach or suggest all of the claim elements, Applicants respectfully submit that claim 1 is not obvious over the teachings of the cited references. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 2 and 15 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1.

With regard to claim 3, the POS apparatus and the information processing apparatus are more clearly recited. Specifically, claim 3 recites A merchandise retail management system for aggregating commodity information of commodities that a customer indicates an intent to purchase from among sample commodities which are on display in a display room, and for preparing the commodities, comprising a wireless tag displayed on each sample commodity, wherein commodity information, including an identification code of that commodity can be read from and written to the wireless tag via radio waves; a portable terminal that is held by customers that have entered the display room, and which is capable of reading the commodity information on the wireless tag, that stores commodity information that has been read out and relays the commodity information to the outside; a POS apparatus adapted to receive the commodity information sent from the portable terminal at a sales counter; and an information-processing apparatus for receiving the relay from the portable terminal, indicating what commodity to have prepared in accordance to what the customer has indicated the intent to purchase and comparing the commodity information which has already been relayed to the information-processing apparatus, with commodity information which is sent from the portable terminal to the POS apparatus and is then entered into the information-processing apparatus.

As noted above, Trotta fails to teach or suggest the POS apparatus communicating with the information processing apparatus in the manner claimed. Further, Garver fails to cure the deficiencies of the teachings of Trotta. Thus, for the reasons set forth above, Applicants respectfully submit that claim 3 is patentable over the references as cited. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 4-13 and 16 are allowable for the reasons set forth above with regard to claim 3 at least based upon their dependency on claim 3.

Conclusion


In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisin Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: February 19, 2008

Respectfully submitted,

By  Catherine M. Voisin
Charles Gorenstein #52,327
Registration No.: 29,271
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicants